IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.1248 OF 2005.

John David : Appellant.

versus

Union of India : Respondent.

Mr.Ramesh Ramamurthy for the appellant.

Mr.Suresh Kumar for the respondent.

CORAM : D.G.DESHPANDE,J.

DATED : 03rd October 2005.

ORAL ORDER

1. Heard advocates for the appellant and respondent. The appellant is the original applicant/claimant who had filed an application for compensation arising out of an accident before the Railway Claims Tribunal, Mumbai. The respondent has raised objection to the jurisdiction and when the tribunal was to proceed with this preliminary issue of jurisdiction, the advocate for the claimant did not remain present.

On the basis of averments the Issue was held against the appellant/claimant. Hence this appeal. In view of this, the matter is admitted and taken up for final hearing.

2. The counsel for the claimant/appellant gives an undertaking that the advocate for the appellant before the tribunal, whoever he may be, will appear before the tribunal and thereafter the tribunal may hear both the sides on the preliminary issue of jurisdiction. In view of this statement and no objection to this by the advocate for the respondent, this appeal is required to be remanded to the railway tribunal. Hence the impugned order is set aside. The matter is remanded to the Railway Claims Tribunal, Mumbai for deciding preliminary issue. The parties to appear before the tribunal on 21st November 2005. The tribunal will hear both the sides on preliminary issue and decide it according to law. Appeal is disposed of accordingly.

[D.G.DESHPANDE]